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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

B5

FILE:

SRC 07 217 51048

Office: TEXAS SERVICE CENTER Date: JAN 12 2010

IN RE:

Petitioner:

Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will reject the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a research scientist at Washington University in St. Louis, Missouri. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

As defined by the U.S. Citizenship and Immigration Services (USCIS) regulation at 8 C.F.R. § 103.3(a)(1)(iii)(B), “affected party” (in addition to USCIS) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition. An affected party may be represented by an attorney or representative in accordance with part 292 of this chapter.

8 C.F.R. § 1.1(f) defines the term “attorney” as any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law.

The petitioner in this proceeding claims to be represented by [REDACTED] of [REDACTED]. The Form G-28, Notice of Entry of Appearance as Attorney or Representative, in the record indicates that [REDACTED] is a member in good standing of the New York State Bar. The petitioner did not sign his own Form I-290B Notice of Appeal. Rather, Part 4 of the form, “Signature of Person Filing The Appeal/Motion or His or Her Authorized Representative,” shows the signed and printed name of [REDACTED].

8 C.F.R. § 292.4(a) permits USCIS to request further proof of a claimed attorney’s authority to act in a representative capacity. In keeping with this regulation, on April 1, 2009, the AAO wrote to [REDACTED] at the address stated above. The AAO requested, along with other information, the individual’s full name and current documentation to establish his good standing as an attorney.

The response, dated April 13, 2009, indicated that the individual’s full name is [REDACTED]. The response included a photocopied certificate of good standing, dated August 30, 2007, issued by judicial authorities in New York.

A search of the New York State Unified Court System’s Attorney Directory showed an address for [REDACTED] that did not match the Flushing address provided in the record.¹ On

¹ A searchable version of the directory is available online at <http://iapps.courts.state.ny.us/attorney/AttorneySearch>

April 30, 2009, the AAO contacted [REDACTED] at the address shown in New York State records, and on May 1, 2009, the AAO provided [REDACTED] with a facsimile of the correspondence described above, including a copy of the August 30, 2007 certificate of good standing. [REDACTED] May 20, 2009 reply reads, in part:

I was very surprised about this information. . . .

I have to seriously confirm that I have never worked from the address: [REDACTED]
[REDACTED] . . . The signatures on the G-28 dated on 8/8/2008 and the letter dated on April 13, 2009 from that [F]lushing address were not signed by me and are forgeries. The letter dated on April 13, 2009 from that Flushing address constitutes the unauthorized use of my personal information.

. . . I must declare that all the cases . . . under my name from that Flushing address are involved in the fraudulent and unauthorized use of my signature. I have never represented any clients through the Flushing address.

added that an "acquaintance" obtained a copy of his 2007 certificate of good standing under false pretenses, claiming that he wanted to show the certificate to potential clients.

There is no credible evidence that the individual who signed the Form I-290B, Notice of Appeal, is in fact an attorney in good standing. Rather, we conclude that an unknown individual at [REDACTED]
[REDACTED], impersonated [REDACTED] in this proceeding and filed the appeal under false pretenses.

An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded. 8 C.F.R. § 103.3(a)(2)(v)(A)(I).

Because the alleged attorney of record, who purportedly signed the appeal form, has disavowed any knowledge of proceedings arising from [REDACTED], we cannot find that the appeal was properly filed by a qualified attorney or representative. We therefore reject the appeal as improperly filed.

ORDER: The appeal is rejected.